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CONTENTS



*Chairman:* Mr. Andrés AGUILAR M. (Venezuela).

## AGENDA ITEM 25

**(a) Question of the reservation exclusively for peaceful purposes of the sea-bed and the ocean floor, and the subsoil thereof, underlying the high seas beyond the limits of present national jurisdiction, and the use of their resources in the interests of mankind: report of the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction *(continued)* (A/8021, A/C.1/L.536, 542 to 545);**

**(b) Marine pollution and other hazardous and harmful effects which might arise from the exploration and exploitation of the sea-bed and the ocean floor, and the subsoil thereof, beyond the limits of national jurisdiction: report of the Secretary-General *(continued)* (A/7924, A/C.1/L.536 and 545);**

**(c) Views of Member States on the desirability of convening at an early date a conference on the law of the sea: report of the Secretary-General *(continued)* (A/7925 and Add.1-3, A/C.1/L.536, 539 and 545);**

**(d) Question of the breadth of the territorial sea and related matters *(continued)* (A/8047 and Add.1, Add.2/Rev.1, Add.3 and 4, A/C.1/L.536 and 545)**

1. Mr. ARIAS SCHREIBER (Peru) *(interpretation from Spanish)*: In my statement on 30 November *[1777th meeting]* I set forth my Government's views concerning the interests involved in the problems of the law of the sea and the draft declaration of principles *[see A/C.1/L.542]* submitted to the present Assembly on the sea-bed and ocean floor beyond the limits of national jurisdiction.

2. Today I shall complete my statement on the other subitems of agenda item 25, and I shall sum up the views which, in our opinion, command the support of the majority insofar as the preparatory phase of the next conference on the law of the sea is concerned. Before beginning my analysis of these items, may I be permitted to refer to a few points that I have been noting down in the course of the debate which reflect certain misunderstandings I consider it essential to clarify.

3. It has been said that there are delegations that are opposed to the machinery provided in the draft declaration of principles, because they consider the machinery contrary to the rights and interests of the developing countries. That conclusion is mistaken, for no one has made any objections to the machinery, but rather to the draft international régime *[see A/8021, annex V]* known as "the Nixon proposal", which is a different proposal and which contains provisions such as the isobathic limit of 200 metres, the acceptance of which would affect the rights of a good number of developing States. We have never opposed the international zone of the sea-bed and ocean floor beyond the limits of national jurisdiction as the common heritage of mankind. On the contrary we have favoured the creation of that area and the related international machinery; the proof of this lies in the fact that we have co-sponsored the draft declaration of principles *[A/C.1/L.544]*. The reduction of the limits, which does not appear in that document, is another matter. In commenting on statements one must be very careful in his choice of language in order to avoid errors, which in this case we assume were involuntary.

4. It has also been asserted that, in the opinion of some delegations, the national interests of the developing countries take priority over the interests of the international community. That is the second inaccurate assertion. We maintained that the right of States to dispose of the natural resources to be found in the area immediately adjacent to their territories to promote the development and well-being of their peoples should prevail over the profit motives of certain enterprises among the great Powers that seek to increase their own prosperity off foreign coasts. This reflects a confusion of concepts which is quite a bit more serious than the previous one, and which must be dispelled once and for all.

5. In all good conscience, how can private business interests be assimilated to the interests of the international community? When almost three quarters of the present States of the world are developing countries, is it not more appropriate to consider that meeting the needs of their

peoples is the primary interest of the international community? Or do certain great Powers–that is, the remaining minority–believe that the desire for profit of their business enterprises represents the general interest?

6. We, the developing countries, do not take pride in being the majority. Far from it, we think that this is a regrettable and unjust situation and, as was well stated by the representative of the Soviet Union whose words coincided with what we had said, the situation is due in large measure to the policy of exploitation carried out under the capitalistic system.

7. History is what it is, whether we like it or not, and certainly the developing countries do not draw any satisfaction from the events that have led to the present conditions. The difference is that we are no longer spectators, but rather protagonists aware of our rights, and determined to have them prevail in order to change this state of affairs.

8. Thirdly, it has been maintained that the delimitation of national jurisdictions by virtue of unilateral action is an abusive practice, contrary to international law, inspired by neo-colonialist ambitions, and one which leads to anarchy and the law of the jungle. Let us analyse this part by part, without jumping to such hasty conclusions.

9. First of all, let us recall one fact: that all the countries of the world, including therefore those which condemn the practice, have resorted to unilateral action to define the limits of their maritime jurisdiction, and that such acts are the source of law, as is recognized not only by the writers of treaties, but also by the International Court of Justice. How then can we describe such acts as contrary to international law if there are no universal provisions to define the limits of maritime jurisdictions? I wonder whether certain countries which find it convenient to have reduced limits for geographic, economic or other reasons have a better right than others, for whom broader limits are more suitable for the same reasons, although with different consequences. How long will certain great Powers wish to be both judge and party and to ignore the fact that all States, large or small, powerful or not, rich or poor–but States none the less–are equal in matters of sovereignty, because we must watch over the destinies of peoples who have the same rights and aspirations as everyone else?

10. The second fact that must be recalled is that the nations that have broadened their maritime jurisdiction are not the industrialized Powers, but rather the developing countries and the reason for that is very clear. Those who have powerful enterprises are interested in having narrow limits in order to exploit the resources of the entire world and to obtain those benefits for themselves. However, to the less-developed countries, which cannot compete in this field, what is urgent for them is to avail themselves of the resources which nature has placed within their reach in the areas adjacent to their respective coasts. It is for that reason that they have extended their jurisdiction–in order to ensure that those resources should not be exploited by foreign enterprises, but rather devoted to the promotion of progress and the improvement of the living conditions of the local populations. Therefore, it is hardly fitting to accuse those countries of having imperialistic ambitions, when what they want is precisely the contrary, namely, to defend their rights to the adjacent seas against any attempt at neo-colonialism by those who have the necessary means and invoke an alleged general interest, but whose aims we have already exposed.

11. With respect to the third deduction we have never held that there should be as many limits as there are States. We have only said, and we repeat once again, that in determining the breadth of maritime jurisdiction one must take account of geographical realities, primarily on a regional basis; and if these considerations give as many different solutions as can be counted on the fingers of one hand, how can it be said that this is anarchy? The principle of plurality which we endorse boils down to the recognition of a very few solutions and a concrete example which will bear out the truth of what I am saying is the example set by South American countries, six of which–that is to say, almost all–have adopted the régime of 200 miles, the same as the system adopted by half of the States of Central America.

12. Of course, we agree that it would be convenient for everyone if the problem of jurisdictional limits were the subject of an international understanding and for this reason we have spoken out in favour of the convening of a new conference on the law of the sea which would include the question of limits in relation to the remaining aspects. I shall revert to this point shortly.

13. Then, we have heard it said that the claim of the coastal States for a broader extension of their jurisdiction is prejudicial to the land-locked States. With all due respect, I must express my disagreement. If, as we have already seen, those nations that have extended their jurisdiction in the sea are developing countries innocent of imperialist pretensions and if the majority of the land-locked States are also developing countries, their interests cannot be in opposition but will rather be complementary. The proof of this is to be found once again in the South American region where the coastal States have granted the land-locked States, by virtue of bilateral agreements, greater facilities for their access to the sea than those provided in multilateral instruments. As nations which are united by common interests and a common destiny, we in South America have done and are prepared to continue to do what is within our power to ensure that the countries which have no coastline enjoy not only the same treatment that we grant to coastal States but also broader advantages, including free transit through our territories, the use of means of communication and transport, warehouses and port facilities and other prerogatives that can be provided. In addition to this, which is done within our own jurisdiction, we recognize their rights to the full use and enjoyment of the high seas, as well as the sea-bed and ocean floor, as the heritage of mankind; such rights are open to these countries on conditions of equality with others, whether it is a matter of the exploration and exploitation of the international area, or the equitable distribution of the resultant income.

14. The fact that at the Lima meeting[1] the participants did not succeed in approving a text concerning the land-locked States was due to the lack of consultations or instructions on formulae that were put forward at the last

1 *Latin American Meeting on Aspects of the Law of the Sea*, held in Lima, Peru, from 4 to 8 August 1970.

minute rather than to disagreement on the substance, for we are all convinced of the rights devolving on those States under any régime that may be established with regard to the sea.

15. Lastly, it has been suggested that the interest of the developing countries lies in reducing their maritime jurisdiction for the sake of the international community, because only in this way can they enjoy the benefits of the exploitation of marine resources. It certainly takes courage to make such statements. The developing countries, as was stated in his recent intervention by the representative of Kenya *[1781st meeting]*, are the parties called upon to evaluate their own interests. And I would add that to do this we do not need to be given any lessons, because our experience of the treatment we have suffered through many centuries of exploitation has already sufficed to enable all our peoples fully to understand where our own interests lie. In my statement of 30 November I made clear the true scope of the alleged general interest under the system of distribution of income which heretofore had been proposed to us; and today I have referred to what should be understood by the interest of the international community, which is not that of certain business enterprises but rather that of the most needy peoples. I refrain, therefore, from labouring this point. And I hope that any doubt may be dispelled about the idea that the developing countries are in agreement with the international zone of the sea-bed and ocean floor beyond the limits of national jurisdiction –beyond these limits, I repeat–not in the direction of our coasts, the resources of which would be exploited by our own means or perhaps with the aid of other countries, but in accordance with the requirements of our laws, in order to safeguard the interests and the well-being of our peoples. Since our situation as it stands is very different from that of the industrialized countries, we could hardly renounce our jurisdictions to the detriment of our development needs and if at present we lack sufficient tools, this is something that can be remedied, whereas the ceding of resources that will one day be exhausted would not be a mortgage on our property but rather an auction at ludicrous prices which would permanently compromise our future.

16. I turn now to the second part of my statement, namely, an exposition of my delegation's views on the remaining subitems under agenda item 25. I shall be brief, because time is short and we shall have other opportunities to explain our views during the preparatory stage of the forthcoming conference on the law of the sea.

17. The contamination of the marine environment and other hazardous effects which may result from the exploration and exploitation of the sea-bed beyond the limits of national jurisdiction are matters whose seriousness and importance have been stressed by other delegations and I need not indulge in unnecessary repetition. Moreover, one does not have to go very far from this pleasant but sorely beset city to find beaches of once extraordinary beauty that are now closed to the public or transformed virtually into garbage dumps, as the price–and I say this in quotation marks–of what is called "the progress of civilization".

18. I merely wish to draw attention to the fact that this problem has developed into one of the factors that has led certain countries to extend the limits of their maritime jurisdiction in order to protect the interests of their nation, which in this instance are not only economic, but also involve the health of the inhabitants.

19. Another factor which should be emphasized and which is mentioned in the report of the Secretary-General *[A/7924]* is the inadequacy of our knowledge about contamination resulting from the exploitation of the sea-bed. The representative of the Ukrainian SSR, in referring to this problem, stated that: "The increasing danger of pollution of the marine environment requires further joint efforts by all countries to prevent pollution of the marine environment and disturbance of its ecological balance." *[1779th meeting, para. 126.]*

20. We share this opinion, as well as that expressed by the representative of Austria when he said that: ". . . our task should be to bring the harmful effects of pollution into relation with what we hope to gain through an activity whose by-product is pollution" *[1780th meeting, para. 43]*.

21. Thus, it is not only the coastal States which are aware of the serious dangers that may arise from activities in exploring and exploiting the sea-bed and ocean floor. But it is of course the coastal States which are most directly affected by the consequences of marine pollution, and this explains and amply justifies the fact that they should take appropriate steps to protect their interests properly.

22. While considerable progress has been made in this direction to work out international agreements which will alleviate the effects of marine pollution, there are no assurances that such agreements will always meet the requirements and needs of the coastal States to their complete satisfaction; and therefore, while the multilateral provisions may be complementary to, they are no substitute for, the measures taken by these countries which have a primary responsibility they can never abandon.

23. The most recent and eloquent example of the inadequacy of international agreement has just been demonstrated to us a few days ago when the two so-called "super-Powers" refused to accept the total denuclearization of the sea-bed and insisted on maintaining a coastal area where they would be allowed to place such devices and other weapons of mass destruction, although this action entails the risk of pollution and ecological imbalance both for the waters adjacent to their territory as well as the waters of other countries, because of the mobility of the sea and a good portion of marine life. Therefore, how can anyone trust in international regulations if they are conditioned and limited by the will, interests and convenience of one country or another? This is an important question that the developing countries must bear very clearly in mind when the limits of national jurisdictions are discussed if they do not wish to be left to the mercy of whatever may subsequently be done by foreign enterprises interested in deriving profit from the use and exploitation of the seas because this is required–and I say this again in quotation marks–"in the interest of the international community".

24. A problem that does not seem to be expressly included among the items to be discussed by the forth-

coming conference on the law of the sea is that which concerns the legal aspects of scientific research in the oceans, the importance of which I should like to emphasize.

25. Undoubtedly, we all agree on the need to promote the broadest possible research of the marine environment, the inadequate knowledge of which not only makes it difficult to exploit the area rationally, but also impedes the adoption of rules to settle realistically and fairly the technical, economic and legal problems involved in the use and exploitation of the sea, as well as of the sea-bed and the ocean floor and the subsoil thereof. That difficulty is pinpointed in the case of the developing countries for reasons that I need not explain. Convinced of the urgency of the problem as a whole, on the initiative of the United States, it has been agreed to carry forward intensive research programmes, with the assistance of UNESCO which, through the Intergovernmental Oceanographic Commission, has been undertaking valuable studies.

26. In this connexion my delegation shares the views expressed here by the representative of Trinidad and Tobago *[1778th meeting]* about the need to intensify United Nations assistance, particularly to the developing countries, to train their nationals in the various aspects of marine science and technology. We also consider that it would be highly appropriate to have the General Assembly call upon the Governing Board of the United Nations Development Programme to give priority to the consideration of those proposals, including the creation of regional institutes for oceanographic studies. And we thank the representative of UNESCO for the special interest which he expressed in those items and for the information he provided yesterday to the Committee *[1787th meeting]*.

27. With respect to the conditions under which research in the seas should be carried out, my Government shares the ideas expressed in various regional and international forums concerning the fact that international co-operation should take into account the rights and interests of the coastal States, which should be the ones to authorize the activities that are carried out within their respective maritime jurisdictions, and which should participate in their development and results.

28. I shall not make any further comments on this item because these points will be developed in due course in the preparatory committee that is going to be set up.

29. The next item for consideration is that of the breadth of the territorial sea and other related matters. The positions of States on that matter today are very far apart, for well-known reasons that I need not go into here. But there is a growing awareness of three very important conclusions.

30. First, the conclusion that the concept of the territorial sea limited by the range of weapons–a fairly arbitrary concept based on the principle that might makes right–has been enriched by more rational criteria: the preservation of the marine environment and the utilization of its resources on a priority basis for the benefit and well-being of the coastal populations or, in other words, to the requirements of military defence we have added the concepts of ecological and economic defence, apart from considerations relating to the necessary customs, police, sanitary, fiscal and immigration controls and so on.

31. Secondly, the conclusion that the narrow limits of the territorial sea, identified in the eighteenth century with the range of a cannon shot, fall short of meeting the responsibilities of the coastal States which flow from the factors I have already described.

32. Thirdly, the consideration that these limits should be broadened, taking into account the geographical characteristics, the geological and ecological conditions and the social and economic needs and responsibilities of the respective coastal States.

33. Those who do not wish to accept these conclusions and cling to old rules–which were never universal and which responded to the interests of their commercial enterprises in an era of colonial domination–act as if the realities of yesteryear were the same as those of today, and the changes that have occurred both in the political and economic fields, as well as in the scientific and technological fields, do not matter to them one bit; and they pretend to ignore the fact that nations which were formerly subjugated have emerged to independent life and are determined to defend their rights because they know that otherwise they will not be able to ensure the well-being of their peoples.

34. For the purpose of sowing confusion and disagreement, the following arguments have been adduced.

35. It was held that the broadening of maritime jurisdictions by the developing countries is contrary to international law. That assertion has already been refuted at the outset of this statement. Suffice it to add that there is no basis whatsoever for identifying international law with the rules dictated by the more powerful States in defence of their own interests, which they flaunt before us as if they were the Bible and must be accepted without dispute. As far as we are concerned, international law is a régime whose validity rests on the fact that it reconciles the interests of all States, in the service of mankind, in which the requirements of peoples count more than the ambitions of business enterprises. Accordingly, it should be open to participation by those countries which, since they were not independent and sovereign when the respective rules were worked out, today have the legitimate right to advance their views, which are just as weighty as those of other countries.

36. It has been said, also without reason, that the broadening of national jurisdictions is inimical to international communication. But we all know that that is not true, because the countries that have broadened their jurisdiction have done so primarily for economic reasons related to the exploitation of their natural resources and the preservation of their marine environment, while stating their willingness to recognize the right of freedom of navigation and overflight for ships and aircraft of any country, rights which concern all States.

37. Finally, it has been held that the 200 mile limit would affect those regions where the narrow breadth of the sea would make such limits impossible. That is a malicious

rebuttal, for we have never contended that the 200 mile régime should be converted into a universal rule, but rather that it should be observed between those countries whose own realities and responsibilities make it possible and necessary to accept that limit.

38. In that area, as I stated in my previous intervention *[1777th meeting]*, in view of the differing positions and interests, there is no viable solution other than to accept a plurality of régimes on primarily regional bases, so that account can be taken of the needs of all States. That conclusion has been reached not only by the developing countries, but also by experts in doctrine from the industrialized countries. Among these I am pleased to quote Professor D. B. Bowett of Cambridge University. In his book *The Law of the Sea,* published in 1967,[2] after referring to the failures of the 1958 and 1960 Conferences on the Law of the Sea, he states the following:

> "Recent years have seen partial solutions, in particular areas, and it is now quite evident that these very difficult problems of adjustment of the economic interests involved can only be made in relation to specific areas, between limited groups of States, and cannot flow from universally-accepted principles. Nor is this really very surprising: the economic problems vary enormously, and there is no reason to suppose that a solution acceptable in economic terms to the West Europeans or the North-East Atlantic, will be equally acceptable in the Pacific or the Indian Ocean.... In short, we have now reached the stage when we have a reasonably clear idea of the procedures which could be of universal application, even though we are forced to abandon the quest for principles of universal application."

39. The acceptance of concepts such as those I have set forth would be not only the most practicable approach but also the most equitable to put an end to a conflict which has disclosed profound inconsistencies. It is difficult for us to understand why, if the great Powers are convinced of the need and have the will to help the developing countries, at the same time in defence of private interests they advocate the adoption of rules the existence of which may lead to the exhaustion of the resources of these very same countries, thus reducing their ability to progress. We also find it surprising that States which promoted great revolutions within their borders with a view to bringing justice to the proletariat should be ready now to adopt a policy of exploitation towards the less developed countries which is not very different from the capitalist ambitions and methods that they condemned.

40. I regret that the need to speak frankly compels me to utter truths that are unpleasant and unwelcome to all. Nothing would be more in accordance with my own turn of mind and with that of my Government than to speak the conciliatory language of those of us who wish to see international understanding brought about. However, when one sees the demands for a fair treaty ignored and sometimes distorted, when one witnesses the indifference and selfishness in which the world continues to live without paying any regard to the clamour of peoples that are struggling in the midst of poverty and hunger, it is very difficult to remain unperturbed. The needs and privations of these people have reached too distressing extremes to allow anyone to refrain from expressing them emphatically or to ignore their feelings and their hopes. I trust that this will be understood and that people will grasp the reasons for using certain words which may seem harsh; for peoples like my own, the conditions of living of the majority are harsh, and the economic and social background which has led to and infuses this debate is grave.

41. I have left until the end of my statement matters concerning the convening of a new conference on the law of the sea, on which our views were expressed in the note of reply *[see A/7925]* my Government sent to the Secretary-General in May 1970 and in the draft resolution contained in document A/C.1/L.545, of which Peru is a sponsor. Therefore, I shall not expand upon them at length, for this debate has already considered exhaustively the purposes of our proposals, but I shall now rather try to sum up the views that are shared by the majority of the Member States, which might be listed as follows:

*(a)* The progressive development of the law of the sea, following upon events that have occurred in the political, economic, social, scientific and technological fields, makes it appropriate that there should be convened a new international conference to work out more adequate rules to meet the needs and realities of all countries of the world, thus including those that did not participate in the previous conferences;

*(b)* The agenda of the conference should be broad, in view of the circumstances referred to above and because the interrelationship of legal problems concerning the marine environment does not permit of partial solutions, although they might suit the interests of certain countries;

*(c)* The conference should be prepared with all the necessary care and study in order to ensure its successful outcome, free from the haste and pressures which led to the unproductive failure of 1960;

*(d)* It would be desirable for the conference to be held early in 1973, depending on the progress made in the work of the preparatory committee;

*(e)* There should be only one preparatory committee, because the unified treatment necessary for the problems of the law of the sea so requires and because this would facilitate the participation of those countries that do not have sufficient staff to participate in different groups;

*(f)* To that end it would be appropriate to draw upon the knowledge and experience of the Committee on the sea-bed, but its membership should be enlarged and observers with full right to speak should be allowed to attend so that where it is converted into a preparatory committee, all States wishing to do so could participate in its work;

*(g)* The first task of the committee so constituted should be the elaboration of the international régime for the sea-bed and the ocean floor beyond the limits of national jurisdiction, in accordance with the spirit of resolution 2574 A (XXIV), since what is agreed upon in this area will

2 Manchester University Press.

have very important repercussions on the other items relating to the marine environment;

*(h)* The preparatory committee should also formulate the relevant recommendations concerning the items to be considered by the conference on the law of the sea and the time-table and procedures for the conference, taking into account the replies sent to the Secretary-General *[A/7925 and Add.1-3]* and the progress made in its own work;

*(i)* The committee, as a last item, should prepare draft articles and other recommendations on the various items on the law of the sea for consideration and final decision by the conference;

*(j)* The first meeting of the preparatory committee could be convened in Geneva in April 1971, and the committee itself would decide on the procedure to be followed for the best discharge of its functions, setting up the subsidiary bodies that it considers necessary for that purpose, having due regard to the economic, scientific and legal aspects involved in the subjects to be considered.

42. In our opinion, the proposals I have set forth involve considerable effort on the part of the developing countries, which are not in the same position as the more highly industrialized countries to look into and settle expeditiously the complicated and delicate problems involved in the law of the sea. Although we all share the desire to reach an agreement as soon as possible, we must take into account the reasons I have mentioned, if we really want to ensure that the forthcoming conference does not fail. We hope that, seeing the matter in this light, other delegations will go along with us, and that we shall shortly be able to begin the first preparatory work for that meeting, on which the peoples of the entire world have placed their hopes.

43. I have a few last comments which I should like to invite representatives to consider. The representative of Canada said in his statement of 4 December:

> "The sea is being dangerously abused, both accidentally and deliberately, in ways which may threaten its capacity to regenerate itself and could even effectively destroy its living resources." *[1784th meeting, para. 79.]*

44. In the face of this unquestioned truth, we should ask ourselves the following questions. Is it the developing countries that are responsible for the abuse of the sea? Are we then going to support the actions of those who, in their desire for larger profits, threaten to ruin the marine environment, regardless of the consequences? Because this course suits them are we going to permit the adoption of the measures that they propose with a view to giving them the instruments necessary to authorize their continued exploitation of us? Because we do not have today the knowledge and the necessary means, shall we renounce our sovereignty in the hope of modest recompense, knowing that later, when we may have those means, we shall no longer have the natural resources, of which we will have been despoiled with our consent? Without having any effective guarantee of what the international régime of the sea-bed and the ocean floor will be, and knowing that its exploitation will of necessity affect the other areas of the marine environment, shall we lend ourselves to the adoption of hasty and partial decisions on the latter matters? Shall we thus allow ourselves to be carried to the brink of the abyss, with our eyes blinded, satisfied with having shown a conciliatory spirit, even at the price of the sacrifice of our rights, which are the guarantee of the well-being of our people?

45. Certainly I know what my Government's answer is. We shall not allow that to happen. We shall go to the conference, but with our defences up, without allowing ourselves to be pushed or pressured by anyone, and we shall participate only to the extent that the preparatory work ensures that our rights will be respected. All developing countries today have a historic responsibility by which we shall be judged. There is only one decision that we can take: the same as that taken at the last session of the Assembly and expressed in resolution 2574 (XXIV), which was adopted by an overwhelming majority. It is the same decision as the one which is to be found in the replies to the Secretary-General when he sent out a questionnaire on the item in pursuance of that resolution. It is the same decision as that adopted at the summit conference at Lusaka by the Heads of State or Government of more than 60 countries.[3] Any other course would mark a step backwards, designed to break our unity, in the knowledge that therein lies our strength.

46. Our own destiny will depend on the vote of delegations on draft resolution A/C.1/L.545, which sums up all of these agreements. We are acting as our peoples, as the peoples of the medium-sized Powers, and as the peoples who also share our just concern expect. The hour of decision has struck and on our part it calls for the will and courage that were taught us by those who gave us independence with the hope that we would be able to defend it.

47. Mr. DEBERGH (Belgium) *(interpretation from French):* It is with great disappointment that my delegation has been forced to note that the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction once again, at the end of its last session in August, had failed to reach an agreement on a draft declaration of principles to govern activities on the sea-bed and the ocean floor beyond the limits of national jurisdiction. It is not that my delegation had expected any spectacular accomplishments, but there was some room for hope in view of the fact that the Committee did have one or two basic texts even if these were only variations of the famous synthesis of last year[4] which was the final substantial result of three years of painstaking work, to which my delegation sincerely believes it contributed its own share of conviction and ingenuity.

48. It is, however, superfluous to hold a post-mortem of the causes of the Committee's relative inability to produce the balanced and full statement which we were entitled to expect from it, in view of the fact that now, finally, we have a compromise text *[A/C.1/L.544]* which is a happy outcome of the long preparatory work accomplished.

3 Third Conference of Heads of State or Government of Non-Aligned Countries, held at Lusaka from 8 to 10 September 1970.

4 See *Official Records of the General Assembly, Twenty-fourth Session, Supplement No. 22,* second part, paras. 83-97.

49. My delegation, therefore, willingly associates itself with the expressions of thanks and admiration which have already been made here to Ambassador Amerasinghe for the perseverence which he displayed in order to bring us closer to our desired goal.

50. It is sometimes said that faith can move mountains. The Chairman of the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction has proved that he has that faith. We already knew that, but it is very pleasant to see it confirmed. My delegation, furthermore, would be remiss in its duty were it not to thank all those who helped the Chairman: in the first place, Ambassador Galindo Pohl, Chairman of the Legal Sub-Committee, and also all those who worked both at the outset and at the eleventh hour, of course not failing to mention those nameless people who worked in the obscurity of unofficial consultations. If we thank the lamp for its light, we must not forget the pedestal which stands patiently in the shadow.

51. It is of little importance that the draft declaration before us represents but the lowest common denominator of the various opinions and trends which prevailed and does not even represent a general consensus. The main point is that we now have before us a text which, because of the basic options contained in it, will enable us to undertake the elaboration of an international régime governing the sea-bed and the ocean floor, whose inherent advantages and merits I am sure we shall be able to perceive more easily later on.

52. In commenting on this draft declaration, I should like first to note a truism. There exists, it is said, "an area of the sea-bed and the ocean floor, and the subsoil thereof, beyond the limits of national jurisdiction". The *Ad Hoc* Committee,[5] and after it the present Committee on the sea-bed, proceeded on the basis of the working hypothesis that there was such an area and, as the discussions and consultations gradually evolved, that hypothesis became a generally accepted postulate, to be finally established as a juridical principle. That truism is not without some importance, because it is tantamount to rejecting, as my colleague Roger Denorme once stated, the elastic interpretation of the definition which the Convention of 1958[6] gives of the continental shelf.

53. Hence, my delegation would have preferred to see this fundamental principle appear in the operative part of the draft resolution. It turned a waif—namely, that area of the ocean floor which could have been treated as international lakes—into a foundling, namely, an area to which national jurisdictions cannot lay claim. Once the child was found, it had to be given a name. Since its godparents were for the most part developing countries, which have a certain interest in seeing how the child was going to develop, it was baptized—an appropriate term to use when speaking of the watery element—"the common heritage of mankind". "What's in a name? " My delegation has always recognized that the concept of a common heritage, without having any clear juridical significance, nevertheless represents a whole moral and political system of great value. My delegation could equally well have accepted the terms "common property", "common possession", "international public domain" and so on, all of which are variants of the same fundamental idea.

54. Just as children named Constance or Prudence need not necessarily be constant or prudent in their behaviour, unless their parents see to it, the heritage of the sea-bed and ocean floor can only be common to the extent that the international community ensures that the resources of that heritage, and the heritage itself, are not subjected to competitive and anarchic appropriation by everyone, but is rather used, explored and exploited for the good of all, with the participation of all.

55. In my delegation's view, then, there is no distinction between the domain and its resources.

56. Paragraphs 12-15 of the draft principles, we believe, translate the way in which the international community, through our General Assembly, conceives of how this common heritage can be utilized in the social, economic and political conditions of the present-day world. Not everything in this list is perfect, but the general guidelines are entirely acceptable to my delegation which, convinced as it is that the specific should give way to the general, will not press for any specific amendments or improvements.

57. One slight weakness is that the draft principles say practically nothing about the problem of delimiting the international area. It is true that there is a small reference to it in the preamble, but it does not have much declarative value. We would have preferred an explicit statement to the effect that delimitation can have no basis other than international agreement.

58. We realize all the practical and political difficulties involved, but we need hardly remind you of the dangers equally inherent in unilateral actions; also I wonder whether the countries that resort to such procedures realize that they are in fact fooling themselves as to their genuine long-term interests.

59. It is really rather an equivocal situation when, with a lordly wave of the hand, moratoria are imposed on the exercise of legal rights when at the same time the other hand is slipping vast portions of the sea into the net of exclusive jurisdiction.

60. In connexion with that problem my delegation holds to the finding of the International Court of Justice, which has already been quoted here, that the validity of any delimitation of the seas and oceans is to be determined by international law as much as anything else. Furthermore, I would recall that the same decision of the Court in the case of the Anglo-Norwegian fisheries[7] rests precisely on a principle also of international law: that delimitation can be carried out on the basis of geographic, economic, historic and social conditions pertaining to the riparian countries, towards whom the international community may be indul-

5 *Ad Hoc* Committee to Study the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction.

6 Convention on the Continental Shelf (United Nations, *Treaty Series*, vol. 499 (1964), No. 7302).

7 Fisheries Case, Judgment of December 18th, 1951; *I.C.J. Reports 1951*, p. 116.

gent if they are at the same time both objective and immediate. It is none the less true, generally speaking, that delimitation is a question of common interest.

61. In the same context, my delegation wonders whether the balance of the draft declaration does not rather lean in favour of the coastal States, particularly in the wording of paragraph 12. The practical solutions to be envisaged in the future régime will, we believe, depend on a prior solution having been found to the question of delimitation. The nature of the rights and duties of the coastal countries depends on the breadth of the area over which they exercise preferential rights.

62. It will no doubt be recalled that the sea-bed Committee was for a long time taken up in discussing the so-called problem of applicable law. Taking everything into account, the real problem is not the relationship between the jurisdiction of the coastal State and freedom of the high seas but the relationship between the jurisdiction of the coastal State and the jurisdiction of the international community. That being so, I shall return to the point I was making: the balance seems to favour the oceanic States and we might have entertained some counterbalance in favour of those countries that are shelf-locked and land-locked.

63. In the case of paragraph 10, one delegation has already expressed its surprise that that paragraph says nothing at all about the freedom of scientific research on the sea-bed and ocean floor, although this freedom is well recognized in international law. My delegation would associate itself with that expression of surprise.

64. At the same time we should like to go into rather more detail on the question of scientific research. It has been argued that our knowledge of the sea-bed and ocean floor is still too limited. My delegation shares that view. It cannot be denied that despite the efforts and progress made in oceanography we know little about the marine environment and its resources. That means that scientific research is necessary on a global scale. There is, then, something missing in the draft principles. It should have, and could have, drawn attention to that state of affairs and called upon States to direct their exploration programmes in such a way as to incorporate them into joint international assistance and co-operation enterprises. That omission is especially regrettable since the Committee has frequently had to come back to the question of how oceanographic research is relevant to the long-term programme,[8] the Decade and the work of the Intergovernmental Oceanographic Commission in general.

65. Furthermore, it goes without saying that if we admit that the knowledge we have of the sea-bed and ocean floor is fragmentary we should not necessarily reach the conclusion that while an international régime is being devised we must in the meantime wait and practice a policy of laissez-faire. If we waited, we would risk lagging behind the evolution of technology and would give a free hand to those who are always quick to invoke for their own purposes the criterion of exploitability in the Convention on the Continental Shelf.

66. Those are some points my delegation wished to develop in connexion with the draft declaration of principles. The total picture seems to be a positive one. My delegation is therefore honoured to become one of the sponsors of this draft resolution. It goes without saying that this draft has no binding value. We could not agree that it constitutes or declares any kind of law, for constitutional reasons, but in accepting it my Government accepts, with respect to the other Members of the United Nations and as an obligation arising from the Charter, the frank and open negotiation of a convention or series of conventions designed to establish an international régime governing the sea-bed and ocean floor. As a member of the sea-bed Committee, my delegation has always defended the idea of that régime being an institutional and regulatory one. We still hold that view. For our part we cannot conceive of entrusting the management of the resources of the sea-bed and ocean floor to the initiative of individual States. That would be a source of anarchy and rivalry and therefore contrary to the common interest and *a fortiori* contrary to the interests of the developing countries. But at the same time it should be recalled that my delegation has always maintained that the extent of the powers enjoyed by the regulatory authority will depend on the solution of the problem of delimitation.

67. I should now like to say something about a particular aspect of the work of the standing Committee during the past year, in connexion with the work of its Economic and Technical Sub-Committee.

68. First, I should like to draw the Committee's attention to paragraph 18 of the Committee's report *[A/8021]*, which agrees with and supplements what I have already said on the problem of scientific research. In that paragraph it is pointed out that the dissemination of the results of research should not be up to States alone but also international scientific institutions and bodies. The Economic and Technical Sub-Committee also emphasized that UNESCO, FAO and other United Nations bodies should intensify, extend and accelerate their training programmes for nationals of developing countries.

69. The report of the Economic and Technical Sub-Committee also has appended to it certain working documents which it would be well not to lose sight of in our future work involving the elaboration of an international régime. These are mainly documents dealing with economic and technical conditions necessary for exploiting submarine resources.

70. Concerning subitem *(b)* of the question under consideration, on the question of marine pollution, my delegation notes, in paragraphs 24 to 32 of its report, that the sea-bed Committee took note of the excellent report prepared by the Secretary-General, contained in document A/7924. The Secretary-General emphasized, and the Committee concluded, that the problem of pollution will never be capable of complete solution unless the sea is not utilized, nor its resources explored and exploited. Hence we must determine the dividing-line within which pollution is tolerable and beyond which it must be prohibited. This is a matter for an in-depth study, which, as has already been proposed here, might best be entrusted to the United Nations Conference on the Human Environment which is to

8 Long-term and expanded programme of oceanographic research (see document A/7750, dated 10 November 1969).

be held in Stockholm in 1972. This, in our view, does not prevent the competent committee in the context of the future conference on the law of the sea from also taking up the problem of the pollution that might result from activities involving the exploration and exploitation of the resources of the ocean floor. But it is obvious that this Committee, and afterward even the conference itself, will never be able to draw up anything more than general rules, and that the technical and practical aspects of the problem will have to be settled as soon as possible by the regulatory body to be set up in the context of the international régime.

71. My delegation is further gratified to see that the sea-bed Committee has not overlooked the problem of marine pollution in its specific aspect. My delegation fully subscribes to the appeal the Committee addressed to all Governments to refrain from using the ocean depths for dumping toxic, radio-active and other dangerous materials. We took note, furthermore, of the explanations provided in that connexion by the delegation of the United States.

72. Coming back to the problem of the pollution which may result from exploration and exploitation of the sea-bed and the ocean floor, my delegation would like to point out something which seems generally to be lost sight of, and that is that the risk of such pollution exists in all directions. Generally speaking, that risk is regarded as involving only the interests of coastal States, but it is entirely conceivable that pollutant hydrocarbons resulting from exploitation of the continental shelf may drift into the open sea and thus contaminate the international zone. The consequences of this may be less spectacular, but we must nevertheless not forget the fact that responsibility in this matter does not only flow in one direction.

73. With regard to subitems *(c)* and *(d)* of agenda item 25, I shall be extremely brief. My delegation notes that the overwhelming majority of Member States are in favour of the idea of convening shortly a general conference on the law of the sea. We go along with that view, and at the same time would like to stress the necessity for methodical and thoroughgoing preparation for such a conference. And we do not say this simply because we like the sound of the words; we also believe that the conference runs the risk of meeting with the same failures experienced in 1930 and 1960 unless the goal is kept in view of completely revising the law of the sea and in particular the general structure of the Conventions adopted in 1958 by the United Nations Conference on the Law of the Sea.

74. Logically, the conference should be limited to two principal items: the breadth of territorial waters, and the régime to govern the sea-bed and ocean floor, each of which will naturally include certain well-known related subitems.

75. Further, we fail to see why the solution of certain problems should necessarily be tied to the solution of a single one with which they have no connexion. Perhaps an interconnexion can be claimed to exist between the régime for the sea-bed and ocean floor and the limits of the continental shelf. But there is absolutely no connexion between the régime for the sea-bed and the ocean floor and the territorial seas, unless it be the conceptual and artificial relationship which some would see fit to discern to serve their own purposes.

76. As for the date and the method to be used in preparing for the conference, my delegation will, in due course, give its views on the various draft resolutions which are at present the subjects of consultation and negotiation.

77. Mr. THOMPSON (Guyana): The Guyana delegation does not intend, in the limited time at the Committee's disposal, to attempt an exhaustive exposition of views on the various intractable issues—political, economic, juridical and ethical—which have so far dominated the discussion of proposals for a régime to ensure the rational exploitation, efficient management and equitable distribution of the resources of an area which is now generally accepted as the common heritage of mankind. We would wish, however, to comment on some fundamental issues which have been the subject of controversy in the debate.

78. Before adverting to the substantive issues, we would like to comment on the high standard of the debate on the various subjects subsumed under agenda item 25, which must be seen as reflecting an enlarged and balanced perspective which has emerged from more than two years of intense intellectual endeavour inside and outside the forums of this Organization. Indeed, there can be no more eloquent testimony of the balance of that perspective than the draft declaration appended to the letter which was communicated to our Chairman over the signature of Ambassador Amerasinghe and which is contained in document A/C.1/L.542. In that letter, Ambassador Amerasinghe characterized the draft declaration as reflecting "the highest degree of agreement attainable at the present time". Our willingness to accept it as such will, we hope, be construed as exemplifying my delegation's implicit trust in the integrity of Ambassador Amerasinghe, and as expressing our unqualified confidence in his competence to continue the enervating and sometimes frustrating task which his position as Chairman of the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction has imposed on him. We welcome his initiative in bringing this draft declaration to the First Committee and remain firm in the conviction that unless all the representatives on this Committee are prepared to show that quality of will which Ambassador Amerasinghe has so eminently illustrated by his actions, the search for a generally acceptable régime and suitable institutional arrangements for the area concerned is unlikely to meet with much success.

79. It is reasonable to infer from the immediately foregoing observation that my delegation regards as untimely and injudicious all criticisms, be they direct or oblique, which have so far been made of the initiative taken by Ambassador Amerasinghe.

80. Since the question of limits of national jurisdiction is crucial to the final determination of the problems connected with the exploration and exploitation of the area concerned, inasmuch as it is either bound to be affected by, or to affect, the normative framework and related institutional arrangements to be devised for the regulation and management of the area, considerable thought must clearly be given to it. The importance of this question has undoubtedly increased within recent times. This is due in part to the allegedly exaggerated claims to unilateral competence by littoral States in respect of the appreciation

of the outer limits of their territorial sea, or their determination of the status of certain living resources in waters adjacent to their coasts. It is also due in part—and this, we respectfully submit, is a more compelling factor—to the propagation of a juridical heresy which developing countries cannot allow to go unchallenged. This heresy is none other than the notion that international law has over the years imposed specific lateral constraints on the sovereign competence of coastal States to delimit by unilateral appreciation the outer limits of their territorial sea.

81. A dispassionate appraisal of State practice, however, would tend to support an almost diametrically opposite conclusion. Indeed, given the existing divergencies in State practice and the absence of any generally binding convention on the subject, the only principle of international law which can reasonably be deduced therefrom incorporates a strong bias in favour of the competence of unilateral appreciation of limits, subject only to the criteria of adjacency and reasonableness.

82. From its inception, State practice on the subject has been predominantly informed by considerations of national security. Indeed, at no time since the welcome enlargement of the State system was the spatial manifestation of this underlying principle so uniform as to support the obviously unwarranted assertion that its continuing validity was contingent on a concept of adjacency which could be neatly quantified and whose limits were either three or four miles or even the product of those apparently magic numerals.

83. In any attempt to vindicate the existence of a norm, it is always advisable to safeguard against confusing its internal and external aspects. Put in another way, a clear distinction should be drawn between the essential structure of a norm and its externalization in various patterns of human interaction. Thus, to use a somewhat light-hearted example, the quality of a norm which prescribes the wearing of apparel in certain inter-personal contacts is in no way modified by individual preferences for mini-skirts or midi-skirts. And it would appear to follow by necessary inference, but in rather more serious vein, that the present-day phenomenon of mini, midi and maxi territorial seas cannot be seen as modifying or, indeed, as an expression of the modification of, the fundamental juridical norm which recognizes as inherent in the coastal State, as an attribute of sovereign competence, the right of unilateral delimitation of its territorial seas.

84. Existing divergencies in the manifestation of this fundamental juridical norm must be explained by the unevenness in the scientific and technological developments among States and the resulting discrepancies in their competence to ensure their national security, and this is not only against military aggression but also against what may be described as economic and environmental aggression.

85. As my delegation has pointed out, the sovereign competence of the coastal State to appreciate, by unilateral action, the outer limits of its territorial sea is subject to the criterion of reasonableness. In our submission, such criteria of reasonableness must be worked out within the framework of a generally acceptable international régime, which would impose effective constraints on the arbitrary exercise of this fundamental right. Such criteria must recognize the varying requirements among coastal States arising out of peculiar geo-economic conditions as well as other relevant considerations. In the absence of the early establishment of an effective international régime of this kind, coastal States, particularly among developing countries, may have no option but to determine their territorial seas on the basis of unilateral action.

86. Turning now to the draft declaration of principles now reproduced in document A/C.1/L.544, my delegation regards the first principle enunciated therein as a peremptory norm of international law admitting of no derogation therefrom. It follows that, in our view, a few, scattered, negative votes on this declaration cannot have the force of altering its status. Since we are inclined to view this declaration as a necessary first step in a more far-reaching exercise, of which the elaboration of a régime and the establishment of appropriate machinery are to form an integral part, we would have preferred the word "or" to the word "and", at the end of the third principle. As it stands, the language of commitment employed in the elaboration of this principle appears to support the inference that failure to establish an international régime or to accept this declaration leaves States or persons, natural or juridical, free to advance claims or to exercise or acquire rights with respect to the area or its resources, in a manner incompatible with certain generally accepted norms of international law contained therein. Similarly, we would have preferred a disjunctive formulation of the proposition contained in the elaboration of the fourth principle, so that the word "or" would be substituted for the word "and" between the words "exploration" and "exploitation" in the first sentence.

87. In addition to these specific observations, my delegation would like to make some broad comments on the draft declaration as a whole. In a general way, the draft declaration does convey the impression of an appropriate and judicious balancing of claims. More important from our point of view, however, is its implicit acknowledgement that not only must rational conduct be predicated on a system of values, in terms of which the decision-maker as actor strives for the optimization of goals through the employment of the most effective means, but that the concept of common heritage must be adopted as the overriding value in the over-all framework. The draft declaration also expresses an awareness of the need for functional coherence and exhibits a firm grasp of the implications of an acceptance of the concept of common heritage. Thus it implicitly recognizes the need for the rational exploitation of the resources of the area and for the equitable allocation of benefits as a matter of right rather than of charitable benevolence. It also recognizes the necessary correlation between rational management, protection and conservation of the environment, inclusive State participation and facility of access to scientific and technical knowledge. In this connexion my delegation endorses the view expressed in paragraph 18 of the sea-bed Committee's report, contained in document A/8021, and the comments made thereon by the delegation of Trinidad and Tobago *[1778th meeting]*. We would further request, if this is both convenient and appropriate, that the Director-General of the United Nations Educational, Scientific and

Cultural Organization, through his representative in New York, should inform this Committee as to what progress has been made towards fulfilling his commitment to expand and intensify programmes for training nationals of developing countries in various fields of marine science and technology.

88. Before concluding, my delegation would like to endorse the view expressed in paragraph 28 of the sea-bed Committee's report, to the effect that, given the ecological unity of the marine environment, pollution prevention and control requires a unified approach. In the light of this observation, my delegation cannot support the segmented approach, contained in part I of draft resolution A/C.1/L.536, to the elaboration of a régime on the subject.

89. As regards the desirability of convening at an early date a conference on the law of the sea, we would offer the following comments. Given the validity of the proposition that the continuing relevance of any normative régime must depend on its ability to evolve *pari passu* with dynamic changes in the environment of its control, my delegation would be hard put to it to contest the need for a conference on the law of the sea to be convened at an early date. To this extent, we are in agreement with the sponsor of draft resolution A/C.1/L.536.

90. We do not agree, however, that any such conference should confine itself primarily to the *soi-disant* outstanding issues which the Geneva United Nations Conferences on the Law of the Sea held in Geneva in 1958 and 1960 failed to resolve. Indeed, from the viewpoint of the developing countries–which, for one reason or another, were not afforded the opportunity to participate in those Conferences–all the issues relating to the law of the sea must be regarded as outstanding and in dire need of co-ordination with existing technological, economic and political realities. For this reason my delegation tends to sympathize with an approach that makes no prejudgements whatever, especially as regards items to be included in the agenda of any such conference and the precise date on which it should be convened.

91. My delegation supports in principle, therefore, the general approach which has been adopted in the draft resolution contained in document A/C.1/L.539, sponsored by the delegations of Brazil and Trinidad and Tobago, and dealing with subitem *(c)* of agenda item 25.

92. My delegation has sponsored, along with the delegations of Indonesia, Jamaica, Kenya and Peru, the draft resolution contained in document A/C.1/L.545, which should be introduced formally in the debate today, and which my delegation commends to this Committee for its most careful consideration.

93. My delegation wishes to reserve its right to intervene again in the debate on this item when all the relevant draft resolutions come up for detailed discussion in this Committee.

94. Mr. NAVA CARILLO (Venezuela) *(interpretation from Spanish):* A perusal of all the matters raised by the four subitems of item 25 would require a great deal of time. In order not to exceed the reasonable time-limits for these statements we shall confine ourselves on this occasion to commenting on and explaining Venezuela's position on certain aspects of subitems *(a), (c)* and *(d),* reserving our right to speak on the other matters when the pertinent draft resolutions come up for consideration.

95. In connexion with subitem *(a),* we should first like to comment briefly on the draft declaration of principles, which is annexed to the letter of 24 November addressed to you, Mr. Chairman, by the Chairman of the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction, Ambassador Amerasinghe *[A/C.1/L.542]* and is reproduced in draft resolution A/C.1/L.544, submitted on 2 December.

96. In considering this draft set of principles, we were very mindful both of that letter and of the statement made by Mr. Amerasinghe at the 1773rd meeting of this Committee. We were also mindful of the explanations and comments submitted in connexion with that same text in the course of the general debate by delegations that were active participants, in the consultations and negotiations which preceded its submission, and in particular of the statement of the representative of El Salvador, Ambassador Galindo Pohl, Chairman of the Legal Sub-Committee, at the 1781st meeting of this Committee, held on 2 December. We very much appreciate the effort which this draft represents, and we join in the general and well-deserved tributes that have been expressed to all those who made it possible for this agreement to be reached, particularly Ambassador Amerasinghe and Ambassador Galindo Pohl.

97. Unfortunately, we did not receive and could not familiarize ourselves with the contents of that draft declaration until 24 November, and our Government has not had sufficient time to study it with all the care it deserves. Nevertheless, while expressly reserving the final position to be taken by Venezuela, we should like to make certain preliminary comments and observations.

98. In the first place, we consider that the draft "is not intended to be a provisional régime governing the exploitation of the sea-bed" and that therefore "the declaration is a first step towards that régime, but it is not yet the régime". I cite the authoritative words of Ambassador Galindo Pohl, contained in his speech made during the 1781st meeting of the Committee.

99. Secondly, my delegation understands that in establishing the exact boundaries of this area we should never lose sight of the existing provisions of international law, namely, the 1958 Geneva Convention on the Continental Shelf,[9] to which Venezuela is a party.

100. In that connexion, we should like to confirm what we said in this Committee at the twenty-fourth session, as the statement appears in the records of 6 November 1969.

> "At this time we shall limit ourselves to recalling that Venezuela is a party to that Convention, and until an agreement on the subject is reached Venezuela reserves all the rights which might devolve on it in accordance with the Geneva Convention and the present standards of

9 United Nations, *Treaty Series,* vol. 499 (1964), No. 7302.

international law. Naturally, these rights cannot be changed or undermined without the express and formal consent of their title-holders. We could not therefore agree that the absence of a definition should serve as a pretext to start exploration and exploitation of resources in areas that are allegedly free." *[1678th meeting, para. 108.]*

101. Thirdly, we share the view of a number of delegations, that the very important point to which reference is made in the sixth preambular paragraph of the draft declaration should appear in the operative part. We have heard the argument, which has some merit, that the preamble and the operative part constitute an organic whole; but we would point out that the presence of that paragraph in the preamble, and its omission from the actual text of the declaration proper, is an unusual procedure. In point of fact, according to generally accepted practice in the United Nations, there is a relationship between what is stated in the preamble and what is laid down in the operative part.

102. We should like to say, fourthly, that subject to the reservation already made about the limits of the area we have no objections to the fundamental affirmation that the area, as well as the resources contained therein, are the common heritage of mankind. We are of course in agreement with all of the consequences and corollaries that emanate from that position.

103. We should then like to go on to say that while in operative paragraph 1 both the area, as a physical space, and the resources contained therein, are declared to be the common heritage of mankind, operative paragraph 2, which is a corollary of the first, makes reference only to the area, and operative paragraph 4 talks of the "activities regarding the exploration and exploitation of the resources of the area and other related activities". For that matter, the latter phrase "and other related activities" seems ambiguous to us.

104. In general the draft resolution talks sometimes about the area and its resources, and sometimes reference is made only to one or the other of the two concepts.

105. Our next observation concerns the use of this area exclusively for peaceful purposes. Operative paragraphs 5 and 8 deal with this aspect. While the first of these paragraphs, that is, operative paragraph 5, is designed to prohibit any use of this area for military purposes, this idea is already spelled out in more concrete terms in operative paragraph 8. For a moment we thought that operative paragraph 5 might refer to scientific research, but this aspect is dealt with specifically in operative paragraph 10.

106. We are sure that operative paragraph 5 has its raison d'être and that our doubts about its meaning and scope are only due to our lack of information and the short time we have had to study this document. We would be very grateful to the sponsors of the draft resolution if we could have an explanation on this point.

107. With reference to operative paragraph 10, which deals with international co-operation in scientific research, my delegation was very pleased to hear, and it firmly supports, the idea set forth by the delegation of Trinidad and Tobago *[see 1778th meeting]* concerning the establishment of oceanographic training institutions in the developing countries on a regional basis. Venezuela now has in operation two research units in oceanography, one of which is at the university level; and at the present time another national university is considering the idea of setting up a new unit. Therefore, in supporting the suggestions made by Trinidad and Tobago, we are prepared to consider undertaking the necessary co-operation with the United Nations Development Programme so that it may study and evaluate the possibility of these national institutes becoming useful at the regional level.

108. Lastly, we have reservations about operative paragraphs 13 and 14. In operative paragraph 13 *(b)*, we would have preferred to see the limitation established in the last line deleted, for we believe, like other delegations, that the rights of the coastal States to take measures to prevent, mitigate or eliminate grave and imminent dangers to their coastline or related interests from pollution or the threat thereof cannot be subject to any limitations. With respect to paragraph 14 it seems to us that the whole question of responsibility should be the subject of consideration when the international régime is discussed and that it should not come in at this stage of our work.

109. Finally, we should like to draw attention to a purely formal aspect: the Spanish text of the draft does not always correspond precisely to the original English.

110. My delegation would now like to refer briefly to subitems *(c)* and *(d)* of agenda item 25, which are closely interrelated.

111. The Government of Venezuela has many reservations about whether or not it would be desirable to convene at an early date a conference or conferences on the law of the sea. In particular, my Government does not believe it is appropriate to revise the Conventions adopted in Geneva in 1958, to which Venezuela is a party.

112. From the replies received by the Secretary-General *[A/7925 and Add.1-3]* and the statements that have been in this general debate it is clear, however, that a large number of Member States consider the convening of such a conference or conferences to be desirable. If this is the majority view, in the opinion of my delegation it is essential, as has been stated by many delegations, that the meeting or meetings should not be held before there is a reasonable assurance that they are going to produce positive results.

113. My delegation believes that this preparatory work could be entrusted to the existing Committee on the sea-bed provided that the present rules concerning the limitation of the number of its members are changed. My delegation firmly believes that, in view of the new mandate that will of necessity have to be given to the Committee, that body should be open to all Member States that express their interest in participating in its work. As other speakers have already pointed out, the inconveniences that might flow from the participation of a large number of States would be obviated through the creation of sub-committees and working groups. In any event, the advantages to be

derived from a committee open to all Member States for the successful completion of its tasks would more than compensate for the in fact very limited inconveniences caused by the large number of Members participating.

114. With respect to the items on the agenda of the future conference or conferences and the schedule of activities, we are inclined to leave these matters to the Committee and at most, as some delegations have already suggested, we could fix tentative dates as desirable goals and objectives rather than as firm time-limits.

115. With respect to the breadth of the territorial sea our position is very clear. We shall confine ourselves to quoting a paragraph of the statement made by the Venezuelan delegation at the Latin American Meeting on aspects of the law of the sea, which was held at Lima from 4 to 8 August 1970.

> "With respect to the breadth of the territorial sea, a matter of vital interest for our countries, Venezuela considers that the right of the State to determine this unilaterally must, on the one hand, have as its limit the legitimate rights and interests of the international community and, on the other hand, the legitimate individual rights and interests of other countries."

116. Mr. PINTO (Portugal): Several delegations to this General Assembly, mainly the representatives of Australia *[1777th meeting]* and Chile *[1775th meeting]*, have declared that they consider item 25 of the agenda to be one of the most important of this year's debate. We fully agree with them. In consequence of this belief my delegation thinks that the time given to us in this twenty-fifth session of the General Assembly to deal with this item is extremely short and will not allow the Members to have a full understanding of all the intricacies of the problems involved in the four subitems established in the agenda. Discussions and full information on such important matters as sea pollution, breadth of the territorial sea, question of holding at an early date a conference of the law of the sea, the sea-bed régime and its limits, and so on, are too important to be fully discussed in practically not more than 10 days. It is true that for three years the United Nations has been struggling to formulate a set of legal principles that would serve as general guidelines for the establishment of a régime for the sea-bed. But we must remember that the Conference of Geneva of 1958 took eight long years to prepare. It is in this long and careful preparation that we must find the reason for its substantial success. In fact, although the 1958 Conventions did not solve certain important aspects of the law of the sea, there is no doubt that they constitute a decisive step for the establishment of the international maritime law.

117. We think that the three years spent in the United Nations in discussions on one of the subitems–the problem of the sea-bed–were not wasted. It is true that at a certain point many of us have wondered if we were not confronted with the building of a Tower of Babel that would never be completed. We think today that those were only episodic discouragements. In fact, only after a comprehensive study and the accumulation of substantial data were we able to form an idea of the multiple interests and aspects that such a question raises. Some of those interests appeared to be so conflicting that at a certain point we sincerely despaired of the possibility of finding a common ground. We think today that this process of contradiction was necessary. In fact, it was only when we arrived at the stage of being convinced of the impossibility of reaching an agreement on the problems of the sea-bed that our imagination geared us to visualize a larger framework in which all the questions could possibly be harmonized.

118. Referring to the fundamental question of the future conference on the law of the sea, we should like to state that Portugal is in favour of convening at an early date a conference on the law of the sea in order to conclude one or more international conventions with respect to the problems relating to the sea itemized in subitems *(a), (b)* and *(c)* of section I of the United States draft resolution *[A/C.1/L.536]*. Referring to subitem *(d)*, we agree that the conference should deal with matters directly related to other subitems, but we should not enlarge the scope of the conference by discussing matters which are only indirectly related to the above-mentioned problems. What we really need is to go ahead and not backwards by destroying what we already achieved with great pain and effort in Geneva.

119. We must always have in mind that if we move towards a conference without sufficient preparation and careful study of the problems and without achieving a first-stage compromise on certain questions, we shall risk serious setbacks and eventually failure. In order to attenuate such risks, our delegation is prepared to support the date of 1973 for the conference, considering it as a desirable date but not a definitive one. We must avoid here a formal commitment that circumstances could prevent us from keeping.

120. Referring now to the problem of whether we should have an enlarged sea-bed Committee that would cope with all the problems of agenda item 25, or two committees–the sea-bed Committee and a new one, which would take care of the other questions–my delegation would like to stress that either solution is convenient. The only point we want to make on this matter is that we think it indispensable that all, I mean all the coastal States, should be represented. The questions of the sea are highly technical and an error with regard to those questions can cause great harm to the international community. The participation of seafaring countries is indispensable for the creation of a wise legal régime. There is not much room in these questions for academic speculation. What we want is experience of the sea and technical knowledge. This would be in the best interest of all nations. Studies, resolutions, agreement on maritime problems which do not benefit from the co-operation of countries such as Greece, Portugal and Peru will always be technically imperfect.

121. We should like to congratulate the Secretariat for the excellent report on marine pollution *[A/7924]* that was submitted to us. That report will constitute a valuable contribution for every State and especially for the coastal States, which are at present confronted with that problem. We also want to declare that Portugal, following a traditional pacific policy, gives full support to the draft resolution submitted to the Committee appealing to the nuclear Powers to halt the atomic arms race and to cease all testing of nuclear weapons.

122. Referring to the breadth of the territorial sea, we heard the representative of the United Kingdom state that claims to a territorial sea in excess of three miles were not universally recognized *[1775th meeting]*. That is true. But there is no doubt that an increasing number of States are extending their territorial sea unilaterally. That is mainly due to the fact that many countries feel the necessity of defending the biological resources of their coasts. The Portuguese delegation favours a reasonable increase of the breadth of the sea that will constitute a balanced compromise between the interests of the coastal States and those that fish in distant waters. Although Portugal did not agree with the draft of the Soviet Union and the United States on the law of the sea relating to the fisheries, as a coastal State and one that also fishes in distant waters we believe that a better system of fishery conservation, management and exploitation is needed. To avoid anarchy and to preserve the living resources of the sea we must all agree to make adequate provisions for the defence of the rights of the fishing States.

123. Referring now to the problems of the sea-bed, we do not need to repeat the reasons we gave last year in defence of the cause of the coastal States *[1682nd meeting]*. This year we believe it is necessary to mention especially that although we are entirely in agreement to give the land-locked States and also those which have a very small continental shelf a right to participate in the resources of the sea, we do not think that the majority of the interventions made on this subject point in the right direction. In fact, we sincerely believe that a coastal State has a right by all means to prevent or defend itself from any menace that might endanger its physical and economic integrity. Activities in the sea-bed beyond the national jurisdiction can harm a coastal State in many ways; for example, any industrial activity can destroy biological resources from which the coastal States take their livelihood; pollution, and specifically oil pollution, can harm irrevocably beaches and other resources of tourism that represent one of the main sources of income of a coastal State; military installation and establishment of weapons of conventional and unconventional nature on the sea-bed can harm or destroy a coastal State. These and many other dangers that can never menace the land-locked States lead us to defend the thesis that a certain preferential consideration should be given to the interests of the coastal States in these matters.

124. Contrary to what has been said, the Geneva Convention on the Continental Shelf of 1958[10] does not favour the occupation of the sea-bed by the super-Powers. On the contrary, the Geneva Convention has made provisions that will allow all coastal States to get an important share of the sea-bed. According to the Convention, the super-Powers and their big economic organizations would have to deal separately with each of the coastal States if they want to have any privilege at all in the sea-bed areas. Those bilateral negotiations make it impossible to abuse the legitimate rights of approximately 90 countries. On the contrary, it is the formula of pure internationalization that would benefit the super-Powers. It is unfortunately true that many important issues of that problem have been obscured with slogans without any meaning at all.

10 *Ibid.*

125. With internationalization the super-Powers will have free access to all the sea-bed beyond national jurisdiction. They are the only ones which at this stage dispose of sufficient capital and technology to present valid and accurate applications to the central international agency to be created, and it is evident that such an international body would be much more docile in its dealings than the individual Governments. But how are we to protect the interests of the land-locked countries and those with a reduced continental shelf? We think that the only rational and efficient way to co-ordinate and satisfy the interests of the coastal and non-coastal States would be through regional agreement. My country favours an extreme flexibility in these questions. We think that internationalization cannot be achieved suddenly; we should go step by step if we really want to have results.

126. We sincerely believe that instant internationalization would prove to be harmful to the majority and favour only a few. We will not go so far as to level the grave accusations the representative of Soviet Union made in this Committee when he said:

> "... we should like to warn against a situation in which general and vague concepts of the sea-bed and its resources as the common heritage of mankind would mask the real danger—that such outwardly attractive formulas might be used to conceal actual domination and establishment of control by the monopolies, the monopoly capital of the imperialist Powers...." *[1777th meeting, para. 74.]*

But we definitely believe that the Geneva Convention on the Continental Shelf gives the coastal States a much more democratic opportunity and guarantees a much wider range of interests than a pure internationalization.

127. It is sufficient to read *The New York Times* of 7 August 1970, in which it is stressed:

> "The proposed international agency would not, as has been charged, deny to Americans their fair share of sea-bed resources. Rather it would provide a more stable régime under which American *entrepreneurs*, with their superior technology, could operate...."

To demonstrate that our reasoning is correct on this question, we should like to refer to a paragraph of the statement made by the representative of Peru, Mr. Arias Schreiber, in this Committee. He said:

> "Secondly, we all know that if the international régime were to be established, the real and substantial benefits from the exploitation would accrue to those firms that extracted the resources from the bed and subsoil, which, according to the United States proposal itself, known as 'the Nixon proposal', would profit commercially thereby. The net income of the international authority would be reduced to sums received for licenses, rights and other payments. Part of this income would be allocated to the administrative expenses of the organization. Another portion would be earmarked to promote efficient exploitation, research, protection of the marine environment, survey of the zone and technical assistance to the contracting parties or their nationals. Only when all this

had been deducted would the balance be applied to encouraging the economic development of the developing countries, but first it would be divided among the international and regional organizations operating in the field. Finally, what was left would be divided among so many countries that each would receive a mere pittance." *[1777th meeting, para. 20.]*

That statement speaks for itself. We think that many delegations are not giving sufficient attention to the note prepared by the Secretariat dealing with "possible methods and criteria for the sharing by the international community of proceeds and other benefits derived from the exploitation of the resources of the area beyond national jurisdiction" *[A/8021, annex IV]*, in paragraph 13 of which it is stated:

"Unless the volume of sea-bed mineral production reaches proportions considerably higher than now anticipated, it would hardly appear practical to attempt to distribute the residual proceeds accruing to the international community directly to the countries of the world, or even to the developing countries alone, according to population size, *per capita* income or similar criteria of need."

128. We insist that the best way to obtain true universality in the long run, with an authentic international agreement on the problems of the sea-bed, should be to use what the representative of Brazil, Mr. Saraiva Guerreiro, has called flexibility. The United Nations should have encouraged the various countries to discuss these matters on a regional basis. It is easier to find a platform of understanding between smaller groups of countries that know each other well than to achieve instant internationalization. These groups should include the land-locked countries and those that have small continental shelves. They should be encouraged to divide their own sea-bed among themselves. With a few exceptions, that trend has been ignored and not encouraged. An ambitious plan of instant universality has been sought. We feel that on many occasions political realism has been absent from the discussions. There was a tendency to forget that the effectiveness of future conventions depends, above all, on the co-operation of the countries that actually, whether we like it or not, control the coasts, own the fleets, run the harbours, collect the oceanographic data and so on. My delegation, like many others in this Committee, thinks that the future conference should deal simultaneously with the problem of the régime of the sea-bed and the problem of the definition of the area to which it will apply.

129. As the idea of pure internationalization with a wider or a shorter objective is, we think, irreversible, my delegation sees President Nixon's proposal, presented in Geneva as a working paper, as a balanced solution if properly implemented in its trusteeship aspects. In fact that proposal has the objectivity of not showing hostility to the fundamental interests of the coastal States and at the same time recognizing a substantial international area to satisfy the principle of common heritage.

130. I should like to refer to the very important draft declaration put before us by Mr. Amerasinghe, Mr. Galindo Pohl, Mr. Pinto of the delegation of Ceylon and Mr. Badawi of the Legal Sub-Committee. We must pay well-deserved tribute to those diplomats. Without them we doubt that a compromise could have been reached. It is an intelligent and balanced document, and we must be grateful to those who have done this work. Unfortunately, the draft declaration suffers from a serious handicap: it does not represent the consensus of many Members of the United Nations, namely, some of the more important of the Committee on the sea-bed. We ask ourselves what chance has the future conference on the sea-bed of succeeding if a restricted committee has failed to reach a proper agreement. Reading the 15 principles now contained in document A/C.1/L.544, we realize that it is a balanced set of principles which, as with all compromises, fails to satisfy everybody. We have several reservations to make, as have many other delegations, with regard to this draft declaration but at this moment we only wish to stress that these principles can be transformed into juridical principles only when an international conference duly convoked approves them. We regard as very important the provision contained in the sixth preambular paragraph for reducing the adverse effects which may occur from variations in the prices of oil, manganese, nickel, copper and so on as a consequence of maritime exploitation. A solution to this problem can only be found if there is a full representation of the Members of the United Nations in the committee that will handle this problem. Only one Member failing to comply with whatever system is created will cause all the efforts to end in failure. This is especially true in the modern competitive world and shows the importance of having a full representation in the committees.

131. Finally, we welcome paragraph 8, which declares the international area reserved for peaceful purposes and provides for the extension of disarmament to a broader area. The Portuguese delegation agrees with freedom of scientific research for peaceful purposes. Portugal has recently joined the Intergovernmental Oceanographic Commission in its endeavour to co-operate in the scientific investigation of the seas. I am glad to inform the Committee that the Hydrographic Institute of Lisbon, which was destroyed by fire with the loss of valuable material and invaluable records last year, has been rebuilt in record time and is today in full activity.

*The meeting rose at 1 p.m.*

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